

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BRIAN A., et al.)	
)	
Plaintiffs,)	Civ. Act. No. 3:00-0445
)	Judge Todd J. Campbell
v.)	Magistrate Judge Joe B. Brown
)	
BILL HASLAM, et al.)	
)	
Defendants.)	

JOINT NOTICE OF FILING

Pursuant to the Notice as to the Role of the Technical Assistance Committee, dated November 9, 2012, the Parties, by their undersigned counsel, give notice of the filing of the Supplemental Monitoring Report of the Brian A. Technical Assistance Committee, dated December 28, 2012, updating the Court and the Parties on the status of the evaluation of TFACTS.

DATED: Nashville, Tennessee
 January 2, 2013

Respectfully submitted,

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/s/ Jacqueline B. Dixon

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**SUPPLEMENTAL MONITORING REPORT OF THE
BRIAN A. TECHNICAL ASSISTANCE COMMITTEE
December 28, 2012**

I. Introduction:

As reflected in the *Notice as to the Role of the Technical Assistance Committee* filed with the Court on November 9, 2012, the Technical Assistance Committee has undertaken an evaluation of TFACTS in an effort to respond to questions and concerns raised by the Court and by counsel for the plaintiffs at the status conference convened by the Court on October 24, 2012. The Technical Assistance Committee (TAC) has committed to presenting the results of its evaluation to the parties for filing with the Court on or before April 4, 2013. The TAC also agreed to provide an update on the status of the evaluation on or before January 2, 2013. This Supplemental Monitoring Report provides that update.

II. Convening of the TFACTS Evaluation Team

The TAC TFACTS Evaluation is being spearheaded by John Ducoff, a consultant retained by the TAC for this purpose. Mr. Ducoff oversaw the implementation of NJ Spirit, New Jersey's current SACWIS system. The TFACTS Evaluation Team that Mr. Ducoff leads presently includes TAC members Judy Meltzer, Paul Vincent and Andy Shookhoff, as well as Jennifer Haight of the Chapin Hall Center for Children at the University of Chicago. The TAC anticipates engaging in the near future an additional consultant with special expertise to help examine some of the technical issues related to the Department's current capacity to work with Java code in general and with the Optimal J tool in particular. Mr. Ducoff is presently in discussions with such an expert. (Resumes of both Mr. Ducoff and Ms. Haight are attached as exhibits to this report.)

Among the activities that Mr. Ducoff has engaged in thus far are the following:

- Mr. Ducoff has had an opportunity to meet with plaintiffs' counsel and with Jim Seaman, the expert retained by plaintiffs' counsel, in order to get a full understanding of their concerns, and has reviewed relevant materials referenced by Mr. Seaman and plaintiffs' counsel. These materials include both the DCS TFACTS "Self-Assessment" conducted by Lee Gregory and the Comptroller's Audit Report.
- On November 7, the Evaluation Team met with the Department leadership team, key DCS Information Technology staff and the Director of the State Office of Information Systems for an initial discussion. (Mr. Ducoff, Ms. Meltzer, and Mr. Vincent participated in that discussion by telephone).

- Mr. Ducoff has had one site visit to Nashville (November 29-30) during which he had an opportunity to meet individually with the key members of the DCS Information Technology leadership team. That site visit also included an initial demonstration of TFACTS, during which Mr. Ducoff was able to get a basic orientation to the case manager-TFACTS interface, the lay out and content of the various TFACTS screens, the ease/difficulty of navigation between screens, and the data entry process.

A second site visit is planned for January 17-18, 2013 and will include meetings with additional staff as well as follow up conversations with a number of IT staff with whom Mr. Ducoff met during his first site visit. Mr. Ducoff has also identified additional materials and information for the Department to provide in advance of the January 17-18 site visit.

III. Initial Focus of Evaluation Activities

There are two areas that have been given priority attention, in light of specific comments made during the course of the October 24 status conference. While the TAC is not expected to complete and submit the results of its evaluation to the parties and the Court until the beginning of April, the TAC wanted to be in a position to provide some preliminary response to these two areas of concern should these areas of concern again be raised at the status conference currently scheduled for January 25, 2013.

A. The Accuracy of the Individual TFACTS Case File

During the course of the status conference, the Court observed that the Department had moved from a “hard copy case file system” to an “electronic case file system.” As the Court noted, the TFACTS electronic file has replaced the “paper file” that used to be the official repository of important information about a child and family, of key documents related to the case, and of case manager activity related to the case.¹ The Court expressed a concern that problems with TFACTS might mean that critical information necessary to everyday case work was not available from the electronic case file, either because the system imposes unreasonable burdens on staff while entering information or because the information, even if properly entered, is nonetheless not accessible for staff to retrieve and review when necessary.

Under the direction of the TFACTS Evaluation Team, TAC monitoring staff has begun a set of activities, including targeted case file reviews and interviews with field staff, related to data entry and electronic case file management, to respond to this question.

¹ The shift from “hard copy” case files to electronic case files was initially accomplished under TNKids. Unlike TNKids, TFACTS uses the family case as the organizing principle and includes the individual “child file” within the family case.

B. The Reliability of the Specific Data Included in the June 2012 Monitoring Report

Much of the discussion at the status conference revolved around areas for which aggregate reporting from TFACTS was not yet available. However, the Court also asked whether the problems with TFACTS meant that the aggregate data that the TAC presented in the June 2012 Monitoring Report was unreliable.

The primary source of the aggregate data presented in that monitoring report is data produced by Chapin Hall from a TFACTS extract. The TAC also relies for a number of monitoring activities on aggregate data derived from the TFACTS Mega Report, a weekly Excel spreadsheet produced by the Department's IT staff from a TFACTS extract.

The Evaluation Team is presently re-examining the processes used to generate, clean and validate the data extract used by Chapin Hall to determine whether, notwithstanding the validation processes in place, the problems with TFACTS (particularly those related to the Optimal J code writing tool) should diminish the confidence that the TAC has had in that data.

The Evaluation Team is in the process of conducting a similar review related to the Mega Report.

IV. Additional External Reviews of TFACTS

The TAC TFACTS Evaluation is overlapping with two other external evaluations of TFACTS.

The first is an Independent Verification and Validation (IVV) review that is being conducted as part of the Department's response to the findings and recommendations of the Comptroller's TFACTS Audit. The TAC Evaluation Team has reviewed and provided input into the scope of work for that review and expects that the contractor selected to do the IVV review will be a widely respected and competent firm. It is not yet clear whether that the results of that review will be available for the TAC to consider prior to concluding its evaluation.

The second external evaluation is that being conducted by the U.S. Department of Health and Human Services to determine whether TFACTS is "SACWIS compliant." That evaluation is scheduled to take place in the spring of 2013.

V. Conclusion

The TAC TFACTS Evaluation is progressing at a pace and in a manner consistent with the time frames established by the Court and the parties. The TAC is confident that it will be able to report the results of its evaluation on or before April 4, 2013.

EXHIBIT A

JOHN A. DUCOFF, ESQ.

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EXPERIENCE

COVENANT HOUSE INTERNATIONAL, New York, NY

Senior Vice President, Strategic Planning and General Counsel
Advisor to the President and Executive VP, Administration

December 2011 – present
February 2010 – December 2011

Member of senior management team at agency serving runaway and homeless youth at 21 sites in six countries, serving as both agency lead on strategic planning and initiatives and as general counsel. Specific strategic planning responsibilities include driving strategic planning processes and supporting organizational development initiatives. Responsibilities include, among other things:

- Serve as co-lead of effort to develop and implement information technology infrastructure and data-driven quantitative and qualitative performance management system to improve outcomes for youth and expand agency's ability to raise funds from corporations and foundations;
- Serve as key member of team charged with re-imagining agency real estate portfolio and assets;
- Oversee advocacy and research relating to anti-human trafficking; and
- Analysis, review, and action planning relating to charity watchdog entities.

As General Counsel, responsible for management of all legal issues facing agency, including litigation, drafting and review of contracts, employment law counseling, intellectual property registration and protection, issues pertaining to corporate structure of agency and affiliates, mitigation of potential liability pertaining to soon-to-be published book regarding youth served by Covenant House, managing and building relationships with *pro bono* outside counsel, and serving as member of team tasked with developing and implementing risk mitigation approach to minimize risk of abuse and neglect to youth served.

DUCOFF CONSULTING LLC

Self-Employed Consultant

December 2009 – March 2011

Served as part of a team monitoring compliance with a federal court consent decree in child welfare reform litigation involving the State of Michigan. Areas of focus included data analytics, performance measurement, and drafting periodic monitoring reports.

DEPARTMENT OF CHILDREN AND FAMILIES, Trenton, New Jersey

Deputy Commissioner, Child Welfare Reform
Director, Legal Compliance and Strategic Planning
Director, Legal and Regulatory Oversight/Acting Chief Information Officer

Oct. 2008 – Dec. 2009
April 2008 – Oct. 2008
July 2006 – April 2008

Direct report to the Commissioner with overall responsibility for the reform of New Jersey's child welfare system. Reform effort includes all divisions in department of 7,000 employees with a budget of \$1.5 billion. As Deputy Commissioner, Child Welfare Reform (October 2008 to December 2009) and Director of Legal Compliance and Strategic Planning (April 2008 to October 2008), responsible for strategic planning and implementing all aspects of the reform; building the capacity to support and implementing a robust quantitative and qualitative performance measurement and accountability system; serving as the lead liaison to the federal monitor overseeing the reform pursuant to the settlement agreement in *Charlie and Nadine H. v. Corzine*, New Jersey's child welfare reform litigation; and producing

comprehensive performance and outcome data for the federal monitor, stakeholders, and the public. Supervised DCF's Office of Legal Affairs and Licensing, Office of Information Technology and Reporting, Office of Quality, and Policy Development Unit, approximately 200 staff.

As Director of Legal and Regulatory Oversight/Acting Chief Information Officer (July 2006 to April 2008), served as executive sponsor and project manager of a \$70.4 million SACWIS project to develop and deploy a new case management, fiscal, and data reporting application for the Division of Youth and Family Services (DYFS). Oversaw successful implementation of the system to approximately 6,500 users, delivering the project \$6.9 million under budget. Resolved complex contractual dispute involving \$40 million agreement with project vendor. Direct oversight of Office of Legal Affairs and Licensing and Office of Information Systems, approximately 175 staff.

Other responsibilities throughout tenure at DCF included:

- Overall responsibility for all litigation, including civil rights, tort, contract, and employment matters, as well as all criminal and quasi-criminal investigations.
- Oversight of program to ensure compliance with state and departmental ethics requirements. Responsible for the management of significant matters involving the State Ethics Commission.
- Reform of internal administrative appeal process, significantly reducing the volume of pending appeals of abuse and neglect substantiations and improving timeliness.
- Oversight of the licensure of child care centers, youth residential facilities, partial care programs, and adoption agencies.
- Departmental representative on Governor's Task Force to develop a response to incident in which a site that was contaminated with mercury was subsequently converted into a child care center. Coordinated, drafted, and promulgated regulation requiring environmental screenings.

DEPARTMENT OF HUMAN SERVICES, Trenton, New Jersey

Special Deputy Commissioner, Legal, Policy, and Legislative Affairs

January 2006 - July 2006

Deputy Commissioner, Disability Services

February 2006 – July 2006

Subcabinet position reporting directly to the Commissioner in 24,000-employee department with a budget of \$10 billion. Served as core member of executive team that successfully renegotiated the settlement agreement in *Charlie and Nadine H. v. Corzine*, replacing a process-based and overbroad settlement with one that is prioritized, sequenced, and outcome-based. Oversaw the Department's interactions with the Legislature, including legislation that created the Department of Children and Families. Responsible for developing plan to create the administrative infrastructure for the new department. Served as the interim Deputy Commissioner, Disability Services, overseeing divisions with 10,000 employees and a \$1.2 billion budget, including the Division of Developmental Disabilities, Division of Disability Services, Division for the Deaf and Hard of Hearing, and Commission for the Blind and Visually Impaired. In that capacity served as the Department's primary liaison to advocates for people with disabilities, providers, and other stakeholders. Other responsibilities included:

- Overall responsibility for all litigation, including civil rights, tort, contract, and employment matters, as well as all criminal and quasi-criminal investigations.
- Oversight of program to ensure compliance with state and departmental ethics requirements. Responsible for the management of significant matters involving the State Ethics Commission.
- Developed and executed department's response to allegations of ethical impropriety surrounding high-level manager and contracted vendor. Oversaw Department's participation in comprehensive investigation led by New Jersey's Office of the Inspector General.
- Served as lead negotiator in § 1983 civil rights class actions on behalf of people with developmental disabilities and mental health needs.

OFFICE OF THE CHILD ADVOCATE, Trenton, New Jersey
Chief Counsel/Director of Litigation

September 2004 – January 2006

Member of executive team in agency providing systemic and individual advocacy for children and families involved with the child welfare, child behavioral health, juvenile justice, special education, and disability systems. Primary responsibility for investigations of private facilities serving children with developmental disabilities and behavioral health needs. Developed systems reform and individual litigation strategies. Chief legal adviser on a range of issues including systems reform litigation, ethics compliance, proposed legislation and regulations, and public records requests. Significant accomplishments included:

- Successfully resolved investigation targeting facility that serves children with developmental disabilities. Settlement agreement required significant reforms in the areas of staffing, abuse and neglect reporting and investigations, and safeguards around the use of restraints and aversive techniques. Agreement also required the appointment of an independent expert to monitor the facility's compliance.
- Responsible for *amicus curiae* litigation before the New Jersey Supreme Court, including *State in the Interest of S.S.*, 183 N.J. 20 (2005), and *Division of Youth and Family Services v. S.S. (In re Guardianship of A.M.S.)*, 187 N.J. 556 (2006).

LATHAM & WATKINS LLP, Newark, New Jersey
Associate

September 2001 – September 2004

Practice focused on complex civil litigation, including nationwide consumer fraud class actions and toxic tort, insurance coverage, environmental, securities, and commercial matters. Participated in trial preparation, mediation, arbitration, and settlement negotiations. Responsible for implementing litigation strategies, managing attorneys and paralegals, and preparing expert witnesses. Significant responsibilities included:

- Deputy Special Counsel to the Office of the Child Advocate in the Jackson matter, an investigation of the involvement of the Division of Youth and Family Services (DYFS) with four former foster children in Collingswood, NJ, who were grossly malnourished.
- Significant involvement in multiple nationwide consumer fraud class actions against a manufacturer of business telecommunications products.
- Assisted in internal investigations addressing allegations involving the Foreign Corrupt Practices Act, payroll improprieties, and securities fraud.
- Primary responsibility for *M.B. v. Quarantillo*, 301 F.3d 109 (3d Cir. 2002), a *pro bono* civil rights action on behalf of a seventeen-year-old detained Algerian youth against the Immigration and Naturalization Service. First member of the firm's *pro bono* committee representing the New Jersey office.

CLERKSHIPS AND ADDITIONAL EXPERIENCE

HONORABLE JAMES R. ZAZZALI, ASSOCIATE JUSTICE, NEW JERSEY SUPREME COURT

Law Clerk

September 2000 - August 2001

HONORABLE ERMINIE L. CONLEY, J.A.D., SUPERIOR COURT, APPELLATE DIVISION

Law Clerk

September 1999 - August 2000

SETON HALL UNIV. SCHOOL OF LAW

Adjunct Professor, Legal Research and Writing

September 2004 - January 2006

EDUCATION

RUTGERS UNIVERSITY SCHOOL OF LAW-CAMDEN

May 1999

J.D. with High Honors, Graduated Top Ten in class
Rutgers Law Journal

RUTGERS COLLEGE, RUTGERS UNIVERSITY

May 1994

B.A. with Honors, Political Science and Journalism
Phi Beta Kappa

EXHIBIT B

Curriculum Vita
Jennifer Miller Haight

Office Address: 25 Park Place, Delmar, NY 12054
jmhchapin@mindspring.com or jhaight@chapinhall.org
W: (518) 459-9568 C: (518) 210-6880

Education

M.A. Master of Arts in U.S History
Harpur College, State University of New York at Binghamton
Spring 1991, ABD as of May, 1992

B.A. Bachelor of Arts, History
Grinnell College, Grinnell, Iowa, May 1988

Skills: Project management, policy development, policy implementation, fiscal analysis, outcome monitoring, database design and maintenance, quantitative analytic skills; analytics instruction, highly proficient SAS and Excel Skills, experienced with probabilistic matching software, UNIX, and SQL. Research and writing skills.

Professional Experience

2007- Present **Senior Researcher**, Chapin Hall at the University of Chicago

Project Director, Michigan Private Provider Redesign (March 2012-present)

Project Evaluator, San Francisco Rapid Support for Supported Housing Project (Oct 2012-present)

Project Director, Evaluating Child Welfare Outcomes in Tennessee (2004-present)

Project Director, New Jersey Core Child Welfare Database (2003- 2011)

Project Director, Northern California Training Academy: Analytics for Child Welfare Administration (2009-present)

Project Director, Toronto Advanced Analytics (2011)

Instructor, Advanced Analytics for Child Welfare Administration (2007 – present)

Research support for Center for State Foster Care and Adoption Data (2001-present). This includes work on a variant of special projects focusing on individual state data as well as cross-state data.

2000-2007 **Researcher**. Chapin Hall at the University of Chicago.

2005 -2007 **Adjunct Instructor**. Marist College, Poughkeepsie, New York.
Designed and taught on-line course in New York State history course for non-traditional students

1999-2000 **Associate Budget Examiner**, New York State Division of the Budget. (Public Protection Unit)

1997-1999 **Senior Budget Examiner**, New York State Division of the Budget (Public Protection Unit)

1995-1997 **Budget Fellow**, New State Division of the Budget (Education, Public Protection)

1994 **Policy Analyst**, New York State Office of the Lieutenant Governor Stan Lundine

1994 **Fellow**, Center for Women in Government. Rockefeller College, SUNY- Albany.

1989-1994 **Instructor/Teaching Assistant**, State University of New York, Binghamton, History Department

Reports and Publications

Performance-Based Contracting in Tennessee's Child Welfare System: A Case Study. A Report Submitted to the Research Development and Dissemination Committee, 2010.

Finding the Return on Investment: A Framework for Monitoring Local Child Welfare Agencies. Fred Wulczyn, Britany Orlebeke, Jennifer Haight) Chicago: Chapin Hall at the University of Chicago, 2009.

Entry and Exit Disparities in the Tennessee Child Welfare System. Fred Wulczyn, Bridgette Lery, Jennifer Haight. Chicago: Chapin Hall at the University of Chicago, 2009.

Child Welfare and Protection Project Mid-Term Evaluation (Romania). Fred Wulczyn, Britany Orlebeke, Jennifer Haight, George Poede. Chicago: Chapin Hall at the University of Chicago, 2000.

Professional Activities and Papers

Racial Disparities in Foster Care. Presented at the Annual Children's Mental Health Research and Policy Conference (The Tampa Conference). Tampa Bay, FL, 2011.

Teaching Social Services Administrators a Coherent Framework for Analyzing Program Outcomes: The Story of Advanced Analytics Presented at the National Association of Welfare Research and Statistics, Albany, NY, 2009.

Data Center Technical Assistance Session, National Association of Public Child Welfare Administrators, National Fall Conference, Washington, D.C., 2009

It's A Two-Way Street: Producing and Using Information to Improve Social Service Outcomes Presented at the National Association of Welfare Research and Statistics, Nashville, TN, 2008.

Substance Abuse in the Context of Maltreatment and Foster Care (with Fred Wulczyn), Presented at SSWR, San Francisco, 2007

Substance Abuse and the Basic Epidemiology of Child Maltreatment and Placement Presented at APPAM, Madison Wisconsin, 2006.

Substance Abuse and the Basic Epidemiology of Child Maltreatment and Placement . Presented at National Resource Center for Child Welfare Data and Technology, Washington, D.C. 2006.

Tracing Trajectories of Children in the Child Welfare System (with Fred Wulczyn) Presented at the National Association of Welfare Research and Statistics, Oklahoma City, 2004.

Participant, Congressional Coalition on Adoption Institute, Convening: *Building a Strong Foundation for Children and Families*, May, 2010

Sub -Committee Member,. *Positioning Public Child Welfare Initiative: Strengthening Families in the 21st Century* . National Association of Public Child Welfare Administrators (NAPCWA), 2009.

Program Staff, Strengthening Data Use and Analysis in Class Action Litigation, in collaboration with Children's Rights, Inc., 2005